

Exhibit 5

1 UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF NEW YORK

3 GOVERNMENT OF THE UNITED)
4 STATES VIRGIN ISLANDS)

5 Plaintiff,)

6 vs.)

7 JPMORGAN CHASE BANK, N.A.,)

8 Defendant/Third-)
9 Party Plaintiff.)

10 JPMORGAN CHASE BANK, N.A.)

11 Third-Party)
12 Plaintiff,)

13 vs.)

14 JAMES EDWARD STALEY,)

15 Third-Party)
16 Defendant.)

17 THURSDAY, JULY 6, 2023

18 CONFIDENTIAL - PURSUANT TO PROTECTIVE ORDER

19 - - -

20 Videotaped deposition of Special
21 Agent Joseph Fonseca, FBI (Retired), held at
22 the offices of WilmerHale, 250 Greenwich
23 Street, New York, New York, commencing at
24 9:07 a.m. Eastern, on the above date, before
25 Carrie A. Campbell, Registered Diplomate
Reporter and Certified Realtime Reporter.

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1 accounts to see if they were making
2 money, and we'd subpoena those
3 records.

4 QUESTIONS BY MR. PENDELL:

5 Q. How about with a large sex
6 trafficking operation? Do you think that
7 financial information would be useful in a
8 large sex traffic operation?

9 MR. BOUCHOUX: Objection to the
10 form.

11 THE WITNESS: I -- if we follow
12 the approach that we use to
13 investigate sex trafficking cases, I
14 would think not.

15 QUESTIONS BY MR. PENDELL:

16 Q. When you say "the approach that
17 we use," you're speaking from your
18 experience, correct?

19 A. Yes. Using our approach to
20 interviewing our victims, and as the case
21 develops, starting to --

22 Q. You understand there are other
23 FBI agents who may have used a different
24 approach in investigating sex trafficking
25 operations; is that fair?

1 MR. BOUCHOUX: Objection to the
2 form.

3 THE WITNESS: I have no idea.

4 QUESTIONS BY MR. PENDELL:

5 Q. Well, let me ask you. Did you
6 read the report of Mr. -- former FBI Special
7 Agent Shaun O'Neill in this case?

8 A. I did.

9 Q. Okay. And according to Special
10 Agent O'Neill, his experience with regards to
11 investigating sex trafficking operations and
12 using banking, financial records to do that
13 is different than yours; is that fair?

14 A. Are you talking about his
15 expert opinion?

16 Q. Yeah. Based on his report.

17 A. It is fair for a very important
18 reason. In the human trafficking cases that
19 it appears he worked were labor trafficking
20 cases, not child sex trafficking cases, given
21 his career where he was in the FBI. So it's
22 not unusual if he decided there's a different
23 way to work his labor trafficking cases.

24 Q. Do you know whether he was ever
25 involved in any child sex trafficking cases?

1 A. Given his résumé -- I don't
2 know if he ever was, but given his résumé, I
3 would say it's highly unlikely.

4 Q. But sitting here today, you
5 can't say one way or another; is that fair?

6 A. I cannot.

7 Q. Okay. Have you ever heard of
8 something called a currency transaction
9 report?

10 A. I have now, yes.

11 Q. And that's sometimes
12 abbreviated as a CTR?

13 A. That's correct.

14 Q. And you say you have now,
15 meaning that since your retention and work on
16 this case, you've heard of a CTR?

17 A. That is correct.

18 Q. And had you heard of it prior
19 to your work in this case?

20 A. Not that I recall, no.

21 Q. Okay. And can you tell me
22 generally your understanding as what a CTR --
23 of what a CTR is?

24 A. Generally a banking document
25 that provides some form of information on

1 finances, I guess.

2 Q. Can you tell me what triggers
3 the obligation for a financial institution
4 like JPMorgan to file a CTR?

5 A. I have no idea.

6 Q. Can you tell me what is
7 required to be disclosed by a financial
8 institution like JPMorgan in a currency
9 transaction report?

10 A. I do not know.

11 Q. Does a currency transaction
12 report require a financial institution like
13 JPMorgan to disclose the identification of an
14 account holder?

15 A. I don't know that.

16 Q. How about the identification of
17 all the signatories to an account at issue?

18 A. I don't know that either.

19 Q. Do you know who at a financial
20 institution prepares a CTR?

21 A. No, I don't.

22 Q. I'm going to represent to you
23 that between 2002 and 2013 there's evidence
24 in this case that JPMorgan filed
25 approximately 150 currency transaction

1 reports regarding cash withdrawals from
2 accounts associated with Mr. Epstein.

3 My question for you is, have
4 you reviewed all of the CTRs in this case?

5 A. I have thumbed through the CTR
6 report, yes.

7 Q. Do you know -- are you able to
8 particularly point to the ones that you
9 reviewed versus didn't review?

10 A. No, I'm not.

11 Q. Would you need to see them in
12 order to say, I've seen this before or not
13 seen it before?

14 A. That would be helpful, yes.

15 Q. Do you know if they're all
16 listed in your reliance material or is a
17 subsection of them?

18 A. Offhand, I do not know.

19 Q. Okay. How did you make the
20 determination as to which ones you were going
21 to flip through?

22 A. It was contained as two
23 documents that held them all, so I went
24 through those two documents.

25 Q. Okay. Do you know how many of

1 the CTRs that you reviewed even mentioned
2 Mr. Epstein's name?

3 A. I do not.

4 Q. You didn't look for that?

5 A. I don't recall how many said
6 his name.

7 Q. But did you look -- did you
8 look specifically for that information?

9 A. I did not. I just thumbed
10 through them to see -- basically see what the
11 documents were. I had never seen them
12 before.

13 Q. Okay. Have you heard of
14 something called a suspicious activity
15 report?

16 A. I have heard of that now as
17 well.

18 Q. Okay. And am I correct also
19 that you heard that now in association with
20 this litigation?

21 A. That's correct.

22 Q. Prior to this litigation, had
23 you ever heard of a suspicious activity
24 report?

25 A. I had not.

1 Q. Prior to this litigation, had
2 you ever seen a suspicious activity report?

3 A. I don't believe I had, no.

4 Q. Okay. Are you able to tell me
5 what triggers the obligation of a financial
6 institution like JPMorgan to file a
7 suspicious activity report?

8 MR. BOUCHOUX: Objection to the
9 form. Outside the scope of the
10 opinion.

11 THE WITNESS: No. There is
12 some reporting requirement, but I
13 don't know what that is.

14 QUESTIONS BY MR. PENDELL:

15 Q. That's outside your area of
16 expertise; is that fair?

17 A. That is correct, yes.

18 Q. Okay. Are you able to describe
19 for me any of the information that is
20 required to be disclosed in a suspicious
21 activity report?

22 A. I am not.

23 Q. Okay. That's outside your
24 expertise as well?

25 A. Correct.

1 Q. Do you have any idea how a
2 suspicious activity report is different, if
3 at all, from a CTR?

4 A. I don't.

5 Q. Do you know who at a financial
6 institution such as JPMorgan is responsible
7 for preparing a suspicious activity report?

8 A. Potentially the same people
9 that prepare the CTRs, but I'm not -- I do
10 not know for sure.

11 Q. And when you say "potentially,"
12 that's -- you're guessing?

13 A. Guessing.

14 Q. But you don't know one way or
15 the other?

16 A. I don't.

17 Q. Do you know if a financial
18 institution like JPMorgan is excused from
19 filing a suspicious activity report if it
20 files a CTR?

21 MR. BOUCHOUX: Objection to the
22 form. Outside the scope of the
23 opinion.

24 THE WITNESS: I don't know.
25

1 QUESTIONS BY MR. PENDELL:

2 Q. Do you understand that
3 suspicious activity reports are not just
4 limited to cash activity?

5 MR. BOUCHOUX: Objection to the
6 form.

7 THE WITNESS: I don't know that
8 as well.

9 QUESTIONS BY MR. PENDELL:

10 Q. Okay. Does the fact that a
11 financial institution has not received a
12 subpoena excuse a financial institution from
13 reporting suspicious activity to law
14 enforcement via a SAR?

15 MR. BOUCHOUX: Objection to the
16 form. Outside the scope of the
17 opinion.

18 THE WITNESS: I have no idea.

19 QUESTIONS BY MR. PENDELL:

20 Q. Okay. Are you aware of whether
21 banking regulators provide guidance to banks
22 on the importance of filing suspicious
23 activity reports?

24 A. I'm not aware of that as well.

25 Q. Okay. So it's fair to say if I

1 Q. Okay. But other agents in
2 other field offices may have used them and
3 found them useful?

4 MR. BOUCHOUX: Objection to the
5 form.

6 THE WITNESS: They may have
7 used them. I have no idea if they
8 were useful or not.

9 QUESTIONS BY MR. PENDELL:

10 Q. So let me ask you this,
11 Mr. Fonseca. So -- Fonseca.

12 A. Most want to say Fonseca,
13 but --

14 Q. Oh, Fonseca. Okay. I
15 apologize.

16 You told me today that you
17 didn't even know what a suspicious activity
18 report was until you got involved in this
19 case. So how do you know that they would not
20 have been useful in any of your
21 investigations, because you never even looked
22 at them previous?

23 MR. BOUCHOUX: Objection to the
24 form.

25 THE WITNESS: So my career, I

1 would think, was fairly successful. I
2 followed tried and true protocols that
3 we had with our victim-center approach
4 of investigating cases of sex
5 trafficking.

6 And I can say in my opinion
7 that they're not -- it's not important
8 because our cases were successful the
9 way we worked them. They didn't
10 require that type of documentation.

11 So I think my experience speaks
12 to the success I had in my casework.

13 QUESTIONS BY MR. PENDELL:

14 Q. And sitting here today, you
15 don't know whether or not other agents in
16 other field offices had success in their
17 investigations utilizing suspicious activity
18 reports; is that fair?

19 MR. BOUCHOUX: Objection to the
20 form.

21 THE WITNESS: I would have not
22 much idea on that. And I say "not
23 much" because I didn't interact every
24 day with other offices, so that would
25 be fair.

1 financial records could possibly have helped
2 identify her as a co-conspirator earlier?

3 MR. BOUCHOUX: Objection to the
4 form.

5 THE WITNESS: Only than the
6 date of trial, I have no -- I have no
7 idea.

8 QUESTIONS BY MR. PENDELL:

9 Q. Okay. You mention in your
10 report at several places that financial
11 records are not useful in validating victim
12 testimony, but you agree that they can be
13 valuable for other purposes in an
14 investigation, right?

15 A. Financial records could be in
16 other investigations, correct.

17 Q. Well, setting aside other
18 investigations, even within a sex trafficking
19 investigation they may be useful for other
20 purposes other than validating victim
21 testimony, right?

22 A. I'm trying to think of an
23 example where that would be true.

24 Q. Well, I'll give you an example
25 here, the Maxwell case. They used the

1 records to show that she was a
2 co-conspirator, didn't they?

3 MR. BOUCHOUX: Objection to the
4 form.

5 THE WITNESS: Again, they used
6 the records, yes. Not being part of
7 that trial, I don't know what that
8 ended up proving. But they did use
9 the records, yes.

10 QUESTIONS BY MR. PENDELL:

11 Q. Did you read the -- strike
12 that.

13 Did you see in the records that
14 you reviewed what she was actually convicted
15 of?

16 A. Yes.

17 Q. And one of the convictions, did
18 it involve being a co-conspirator with
19 Mr. Epstein?

20 A. She was convicted of
21 conspiracy, yes.

22 Q. Okay. Do you know if the
23 investigators in that case used any of the
24 financial records to help identify additional
25 witnesses?